

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

**COUNTY OF NASSAU, COUNTY OF
ALLEGANY, COUNTY OF CLINTON,
COUNTY OF CORTLAND, COUNTY OF
FRANKLIN, COUNTY OF FULTON,
COUNTY OF GREENE, COUNTY OF
HERKIMER, COUNTY OF LEWIS,
COUNTY OF MADISON, COUNTY OF
MONTGOMERY, COUNTY OF
NIAGARA, COUNTY OF OSWEGO,
COUNTY OF SCHENECTADY, and
COUNTY OF STEUBEN,**

Plaintiffs,

v.

**ACTAVIS HOLDCO US, INC.;
ACTAVIS ELIZABETH LLC;
ACTAVIS PHARMA, INC.;
ALVOGEN INC.;
AMNEAL PHARMACEUTICALS, INC.;
AMNEAL PHARMACEUTICALS, LLC;
APOTEX CORP.;
AUROBINDO PHARMA USA, INC.;
BAUSCH HEALTH AMERICAS, INC.;
BAUSCH HEALTH US INC.;
BARR PHARMACEUTICALS, LLC;
BRECKENRIDGE PHARMACEUTICAL,
INC.;
CAMBER PHARMACEUTICALS, INC.;**

Case No. 2:20-cv-00065

JURY TRIAL DEMANDED

**CARACO PHARMACEUTICAL
LABORATORIES LTD.;
CITRON PHARMA LLC;
DAVA PHARMACEUTICALS, LLC;
DR. REDDY'S LABORATORIES, INC.;
ENDO INTERNATIONAL PLC;
FOUGERA PHARMACEUTICALS INC.;
G & W LABORATORIES;
GENERICS BIDCO I, LLC;
GLENMARK PHARMACEUTICALS,
INC.;
GREENSTONE LLC;
HERITAGE PHARMACEUTICALS, INC.;
HIKMA LABS, INC.,
HIKMA PHARMACEUTICALS, USA,
INC.,
IMPAX LABORATORIES, INC.;
JUBILANT CADISTA
PHARMACEUTICALS, INC.;
LANNETT COMPANY, INC.;
LUPIN PHARMACEUTICALS, INC.;
MAYNE PHARMA USA INC.;
MORTON GROVE
PHARMACEUTICALS, INC.,
MUTUAL PHARMACEUTICAL CO.,
INC.;
MYLAN INC.;
MYLAN PHARMACEUTICALS, INC.;
MYLAN N.V.;
OCEANSIDE PHARMACEUTICALS,
INC.;**

PAR PHARMACEUTICAL, INC.;
PERRIGO NEW YORK, INC.;
PFIZER, INC.;
SANDOZ, INC.;
SUN PHARMACEUTICAL INDUSTRIES,
INC.;
TARO PHARMACEUTICALS USA, INC.;
TELIGENT INC.,
TEVA PHARMACEUTICALS USA, INC.;
TORRENT PHARMA INC.,
UDL LABORATORIES, INC.,
UPSHER-SMITH LABORATORIES, LLC;
URL PHARMA, INC.;
VALEANT PHARMACEUTICALS
NORTH AMERICA, LLC;
VALEANT PHARMACEUTICALS
INTERNATIONAL, INC.;
VERSAPHARM, INC.;
WEST-WARD COLUMBUS, INC.,
WEST-WARD PHARMACEUTICALS
CORP.;
WOCKHARDT USA LLC; and
ZYDUS PHARMACEUTICALS (USA),
INC.,
Defendants.

PLAINTIFFS' MOTION FOR LEAVE TO AMEND

Both the Federal Rules of Civil Procedure and basic considerations of fairness and justice suggest that Plaintiffs be allowed to amend their pleadings. Rule 15 mandates that leave to amend should be “freely given.”

This is especially so in this particular case, where no motion to dismiss or Answer has been filed or served, no discovery requests have been served, and no scheduling order has been entered – so Defendants cannot be prejudiced by the amendment of Plaintiffs’ allegations.

This is even more especially so because this is a case about a price-fixing and bid-rigging cartel, where courts have long recognized “the facts of the conspiracy are for the most part within [the] possession and knowledge of defendant.” *See, e.g., F.D.I.C. v. WH Venture*, No. 84-5673, 1986 WL 3560, at *1 (E.D. Pa. Mar. 13, 1986) (citing *Leonia Amusement Corporation v. Lowe’s Incorporated*, 16 F.R.D. 583, 584 (S.D.N.Y. 1954)). Indeed, Congress has voiced its support for this principle as well, by tolling the applicable statute of limitations in antitrust cases in which the DOJ brings criminal proceedings pending the completion of those proceedings, plus one additional year. *See* 15 U.S.C. § 16(i).

Given that the Rules, basic principles of fairness, and strong public policy considerations all support granting leave to amend, Plaintiffs respectfully request leave to file their proposed Second Amended Complaint.

Dated: December 15, 2020

Respectfully Submitted,

NAPOLI SHKOLNIK PLLC

/s/ Salvatore C. Badala

Salvatore C. Badala (SB2053)

Alastair J.M. Findeis

W. Steven Berman (Pa. Bar 45927)

360 Lexington Ave., 11th Floor

New York, NY, 10017

Tel: (212) 397-1000

Fax: (646) 843-7603

sbadala@napolilaw.com

afindeis@napolilaw.com

/s/ W. Steven Berman

W. Steven Berman (Pa. Bar 45927)

Napoli Shkolnick PLLC

One Greentree Center, Suite 201

10,000 Lincoln Drive, East

Marlton, NJ 08053

Tele: (856) 988-5574

Fax: (646) 843-7603

wsberman@napolilaw.com

Attorneys for the Plaintiff Counties